
By: **Delegates Hubbard, Frush, Bobo, Bronrott, Montgomery, V. Clagett, and Franchot**

Introduced and read first time: January 19, 2004
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 2004

CHAPTER _____

1 AN ACT concerning

2 **Environment - Products That Contain Mercury - Labeling and Disposal**

3 FOR the purpose of prohibiting manufacturers and retailers from selling, on or after
4 a certain date, certain products that contain mercury unless a certain label is
5 affixed to the product; exempting certain products that contain mercury from
6 the labeling and disposal requirements; ~~providing~~ requiring that certain
7 information be included on ~~the~~ a certain label; ~~providing that a certain label that~~
8 conforms to another state's label requirements for certain products satisfies
9 certain label requirements of this Act; ~~providing that a manufacturer of certain~~
10 products is responsible for affixing a certain label; ~~providing that a~~
11 manufacturer that labels certain products in compliance with another state's
12 labeling requirements for certain products satisfies certain labeling
13 requirements of this Act; ~~providing that a vehicle manufacturer may comply~~
14 with the labeling requirements of this Act by placing a certain label in a certain
15 place; ~~prohibiting a person from disposing of certain products that contain~~
16 ~~mercury, on or after a certain date, unless certain conditions have been met;~~
17 ~~requiring operators of refuse disposal systems to provide notice of certain~~
18 ~~disposal prohibitions to certain persons~~ requiring, on or after a certain date, a
19 person who discards a certain number or more of certain mercury-added
20 fluorescent lamps a year to arrange for the final disposition of the lamps at
21 certain facilities; ~~authorizing the Department to delay the imposition of certain~~
22 requirements under certain circumstances; ~~authorizing an owner or operator of~~
23 a commercial or industrial property to assign the responsibility for compliance
24 with certain final disposition requirements to certain tenants under certain
25 circumstances; ~~providing certain owners and operators with certain liability~~
26 protection under certain circumstances; requiring the Department of the
27 Environment to adopt certain regulations by a certain date; requiring the

1 Department to consult with certain stakeholders before adopting certain
2 regulations; defining certain terms; and generally relating to the labeling and
3 disposal of products that contain mercury.

4 BY repealing and reenacting, with amendments,
5 Article - Environment
6 Section 6-905
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 2003 Supplement)

9 BY adding to
10 Article - Environment
11 Section 6-905.1 and 6-905.2
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 2003 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Environment**

17 6-905.

18 (a) In this [section, "marketer"] PART THE FOLLOWING WORDS HAVE THE
19 MEANINGS INDICATED.

20 (B) "MANUFACTURER" MEANS A PERSON THAT:

21 (1) PRODUCES A PRODUCT;

22 (2) FOR A MULTICOMPONENT PRODUCT, PRODUCES OR ASSEMBLES THE
23 FINAL PRODUCT; OR

24 (3) SERVES AS AN IMPORTER OR DOMESTIC DISTRIBUTOR OF A
25 PRODUCT PRODUCED OUTSIDE OF THE UNITED STATES.

26 ~~(B)~~ (C) "MARKETER" means a person who manufactures, assembles, sells,
27 distributes, affixes a brand name or private label to, or licenses the use of a brand
28 name on a fever thermometer containing mercury.

29 [(b) Beginning October 1, 2002, a marketer may not sell or provide a fever
30 thermometer containing mercury to a consumer except by prescription.

31 (c) This section does not apply to:

32 (1) Fever thermometers sold or provided to be used in hospitals or other
33 places where medical services are provided by medical service professionals; or

34 (2) Digital thermometers using mercury-added button cell batteries.]

1 ~~(C)~~ (D) "MERCURY-ADDED PRODUCT" MEANS ANY OF THE FOLLOWING
2 PRODUCTS IF CONTAINING ELEMENTAL MERCURY OR A MERCURY COMPOUND THAT
3 HAS BEEN ADDED TO THE PRODUCT FOR ANY REASON:

- 4 (1) DYES OR PIGMENTS;
- 5 (2) ELECTRIC SWITCHES;
- 6 (3) FLUORESCENT LAMPS; AND
- 7 (4) THERMOSTATS.

8 (E) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-135 OF THE
9 TRANSPORTATION ARTICLE.

10 (F) "RECLAMATION FACILITY" MEANS A SITE:

11 (1) WHERE EQUIPMENT IS USED TO RECAPTURE MERCURY FROM
12 MERCURY-ADDED FLUORESCENT LAMPS FOR THE PURPOSE OF RECYCLING OR
13 REUSING THE MERCURY; OR

14 (2) THAT COLLECTS MERCURY CONTAINING COMPONENTS FROM
15 MERCURY-ADDED FLUORESCENT LAMPS FOR THE EVENTUAL RECAPTURE AND
16 RECYCLING OR REUSE OF THE MERCURY.

17 6-905.1.

18 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MARKETER
19 MAY NOT SELL OR PROVIDE A FEVER THERMOMETER CONTAINING MERCURY TO A
20 CONSUMER EXCEPT BY PRESCRIPTION.

21 (B) THIS SECTION DOES NOT APPLY TO:

22 (1) A FEVER THERMOMETER SOLD OR PROVIDED TO BE USED IN
23 HOSPITALS OR OTHER PLACES WHERE MEDICAL SERVICES ARE PROVIDED BY
24 MEDICAL SERVICE PROFESSIONALS; OR

25 (2) A DIGITAL THERMOMETER USING MERCURY-ADDED BUTTON CELL
26 BATTERIES.

27 6-905.2.

28 (A) THIS SECTION DOES NOT APPLY TO:

29 (1) PRESCRIPTION DRUGS;

30 (2) ANY SUBSTANCE REGULATED BY THE FEDERAL FOOD, DRUG, AND
31 COSMETIC ACT; ~~OR~~

32 (3) BIOLOGICAL PRODUCTS REGULATED BY THE FEDERAL FOOD AND
33 DRUG ADMINISTRATION UNDER THE FEDERAL PUBLIC HEALTH SERVICE ACT;

1 (4) MEDICAL EQUIPMENT NOT INTENDED FOR USE BY NONMEDICAL
2 PERSONNEL; OR

3 (5) PRODUCTS THAT CONTAIN MERCURY-ADDED PRODUCTS THAT ARE
4 LABELED IN ACCORDANCE WITH THIS SECTION.

5 (B) (1) ON OR AFTER APRIL 1, 2006, UNLESS THE PRODUCT IS LABELED IN
6 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE REGULATIONS
7 ADOPTED BY THE DEPARTMENT UNDER THIS SECTION, A MANUFACTURER OR
8 WHOLESALER MAY NOT SELL A MERCURY-ADDED PRODUCT:

9 (I) AT RETAIL IN THE STATE; OR

10 (II) TO A RETAILER IN THE STATE; ~~OR~~

11 ~~(III) FOR USE IN THE STATE.~~

12 (2) ON OR AFTER APRIL 1, 2006, UNLESS THE PRODUCT IS LABELED IN
13 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE REGULATIONS
14 ADOPTED BY THE DEPARTMENT UNDER THIS SECTION, A RETAILER MAY NOT
15 KNOWINGLY SELL A NEW MERCURY-ADDED PRODUCT IN THE STATE.

16 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
17 LABEL OF A MERCURY-ADDED PRODUCT MUST CLEARLY INFORM THE PURCHASER
18 OR CONSUMER THAT:

19 ~~(+)~~ (I) MERCURY IS PRESENT IN THE PRODUCT; AND

20 ~~(2)~~ (II) THE PRODUCT MAY NOT KNOWINGLY BE DISPOSED OF OR
21 PLACED IN A WASTE STREAM DESTINED FOR DISPOSAL UNTIL THE MERCURY IS
22 REMOVED AND REUSED, RECYCLED, OR OTHERWISE MANAGED TO ENSURE THAT IT
23 DOES NOT BECOME PART OF SOLID WASTE OR WASTEWATER MUST BE MANAGED IN
24 ACCORDANCE WITH FEDERAL AND STATE DISPOSAL LAWS TO MINIMIZE THE
25 RELEASE OF MERCURY INTO THE ENVIRONMENT.

26 (2) A LABEL THAT CONFORMS TO ANOTHER STATE'S LABEL
27 REQUIREMENTS FOR MERCURY-ADDED PRODUCTS SATISFIES THE REQUIREMENTS
28 OF THIS SUBSECTION.

29 (D) (1) THE MANUFACTURER OF A MERCURY-ADDED PRODUCT IS
30 RESPONSIBLE FOR AFFIXING THE LABEL REQUIRED BY THIS SECTION ON
31 MERCURY-ADDED PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2006.

32 (2) (I) A MANUFACTURER OF A MOTOR VEHICLE MAY MEET THE
33 LABELING REQUIREMENTS OF THIS SECTION BY PLACING THE LABEL ON THE
34 VEHICLE'S DOORPOST.

35 (II) A MANUFACTURER THAT LABELS A MERCURY-ADDED
36 PRODUCT IN COMPLIANCE WITH ANOTHER STATE'S LABELING REQUIREMENTS FOR

1 THE SAME OR A SIMILAR MERCURY-ADDED PRODUCT SATISFIES THE
2 REQUIREMENTS OF THIS SUBSECTION.

3 (E) (1) IN THIS SUBSECTION, "MERCURY-ADDED FLUORESCENT LAMP"
4 MEANS A FLUORESCENT LAMP THAT EXHIBITS THE TOXICITY CHARACTERISTIC FOR
5 MERCURY UNDER TITLE 26, SUBTITLE 13, CHAPTER 2 OF THE CODE OF MARYLAND
6 REGULATIONS.

7 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ON
8 OR AFTER OCTOBER 1, 2006, A PERSON MAY NOT KNOWINGLY DISPOSE OF A
9 MERCURY-ADDED PRODUCT IN A REFUSE DISPOSAL SYSTEM LOCATED IN THE STATE
10 UNLESS THE MERCURY HAS BEEN:

11 (1) REMOVED FROM THE PRODUCT; AND

12 (2) REUSED, RECYCLED, OR OTHERWISE MANAGED TO ENSURE THAT IT
13 DOES NOT BECOME PART OF SOLID WASTE OR WASTEWATER.

14 (F) ON OR BEFORE OCTOBER 1, 2006, THE HOLDER OF A PERMIT TO OPERATE A
15 REFUSE DISPOSAL SYSTEM SHALL POST SIGNAGE AT ALL ENTRANCES TO THE
16 REFUSE DISPOSAL SYSTEM INFORMING THE PUBLIC OF THE PROHIBITION ON
17 DISPOSING OF MERCURY-ADDED PRODUCTS CONTAINED IN SUBSECTION (E) OF THIS
18 SECTION A PERSON WHO DISCARDS 360 OR MORE MERCURY-ADDED FLUORESCENT
19 LAMPS IN A CALENDAR YEAR SHALL ARRANGE FOR THE FINAL DISPOSITION OF THE
20 LAMPS AT A:

21 (I) RECLAMATION FACILITY; OR

22 (II) DESTINATION FACILITY, AS DEFINED BY THE DEPARTMENT IN
23 REGULATION.

24 (3) THE DEPARTMENT MAY DELAY THE REQUIREMENTS OF PARAGRAPH
25 (2) OF THIS SUBSECTION IF IT DETERMINES THAT IT WILL NOT BE FEASIBLE FOR A
26 PERSON TO ARRANGE FOR THE FINAL DISPOSITION OF LAMPS AT RECLAMATION
27 FACILITIES ON THE DATE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION.

28 (4) (I) AN OWNER OR OPERATOR OF AN INDUSTRIAL OR COMMERCIAL
29 PROPERTY MAY ASSIGN THE RESPONSIBILITY FOR ENSURING COMPLIANCE WITH
30 THIS SUBSECTION TO A TENANT WHO IS OTHERWISE RESPONSIBLE FOR
31 MAINTAINING THE PROPERTY.

32 (II) IF A TENANT IS RESPONSIBLE FOR ENSURING COMPLIANCE
33 AND FAILS TO COMPLY WITH THIS SUBSECTION, THE OWNER OR OPERATOR OF THE
34 PROPERTY IS NOT LIABLE FOR THE FAILURE TO COMPLY.

35 (G) BY OCTOBER JUNE 1, 2005, THE DEPARTMENT SHALL ADOPT
36 REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION,
37 INCLUDING:

1 (1) ESTABLISHING STANDARDS FOR THE SIZE, LOCATION, AND
2 TYPEFACE OF THE LABEL REQUIRED BY THIS SECTION; AND

3 (2) ESTABLISHING CRITERIA UNDER WHICH A PERSON SUBJECT TO
4 THIS SECTION MAY BE EXEMPTED FROM THE LABELING AND DISPOSAL
5 REQUIREMENTS AND LIMITATIONS OF THIS SECTION.

6 (H) BEFORE ADOPTING A REGULATION UNDER THIS SECTION, THE
7 DEPARTMENT SHALL CONSULT WITH PERSONS THAT HAVE AN INTEREST IN OR ARE
8 DIRECTLY IMPACTED BY THE PROPOSED REGULATION.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect October 1, 2004.